

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**  
**Kentucky Commission on the Deaf and Hard of Hearing**  
**(Amendment)**

**735 KAR 2:020. KCDHH Interpreter Referral Services Program parameters.**

RELATES TO: KRS 12.290, 163.510(4), 29 U.S.C. 794, 42 U.S.C. 12132

STATUTORY AUTHORITY: KRS 12.290, 163.510(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 12.290 requires each department, program cabinet, and administrative body of state government to promulgate administrative regulations to provide accessibility to all services by persons who are deaf or hard-of-hearing. KRS 163.510(4) requires the commission to oversee the provision of interpreter services to the deaf and hard of hearing. This administrative regulation establishes the Interpreter Referral Services Program parameters and the criteria of receiving and providing these services.

Section 1. (1) In accordance with the requirements of the Rehabilitation Act (29 U.S.C. 794) and the Americans with Disabilities Act (42 U.S.C. 12132), KCDHH Interpreter Referral Services shall be provided to a state agency if:

(a) An individual who is deaf or hard of hearing requires interpreting or captioning services to access state services ~~Necessary to receive public service by an individual who is deaf or hard of hearing~~;

(b) Requested by a state agency employee who is deaf or hard of hearing;

(c) Required under a provision of the Acts; or

~~(d)~~ (e) Necessary to provide accessibility to a public event, as defined by the Acts.

(2) Participation in the KCDHH Interpreter Referral Services Program shall be voluntary.

(3) The services of a qualified interpreter or transliterator or CART services shall be provided at no cost to the deaf or hard of hearing consumer. ~~[(4) The KCDHH shall comply with KRS Chapter 45A in employing staff and contract interpreters with the KCDHH Interpreter Referral Services Program.]~~

~~(4)~~ (5) The KCDHH Interpreter Referral Service shall honor the preferred communication mode of a deaf or hard of hearing consumer if a qualified interpreter, ~~or~~ transliterator, or CART is available.

~~(5)~~ (6) The KCDHH may assign two (2) or more interpreters as appropriate for assignments that are longer than one (1) hour, in accordance with the standard practices of "Team Interpreting".

~~(6)~~ (7) The KCDHH shall assign a deaf interpreter (DI) ~~interpreters~~ in accordance with standard practices in the interpreting profession.

~~(7)~~ (8) A nationally certified and state licensed interpreter shall be required ~~preferred in~~ when working for the KCDHH Interpreter Referral Services Program.

~~(8)~~ (9) The interpreter fee for a state agency shall be negotiated between the state agency and the interpreter on an individual basis. The KCDHH Interpreter Referral Service Program shall provide the referral and share the average rate for services within the state, but shall not dictate hourly fees nor administer billing for services.

~~(9)~~ (10) The KCDHH shall:

(a) Respond to all requests for interpreting or CART services;

(b) Not guarantee that all requests will be filled; and

(c) Except in an emergency, provide service on a first-come, first-served basis;

~~(10)~~ (11) If the KCDHH Interpreter Referral Services Program is unable to fulfill a request for services by 12 p.m., two (2) working days prior to the date of the assignment, KCDHH staff shall

contact the requesting agency and suggest the following:

- (a) That the search for an interpreter or CART cease;
- (b) Continuing to seek an interpreter or CART for the assignment, with the understanding that it may not be filled; or
- (c)[A] Rescheduling of the event with KCDHH Interpreter Referral Services Program staff continuing to seek a qualified interpreter or CART for the new assignment date.

VIRGINIA L. MOORE, KCDHH Executive Director

APPROVED BY AGENCY: April 11, 2018

FILED WITH LRC: April 11, 2018 at 4 p.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on May 21, 2018, at 10:00 a.m. EST, at the Kentucky Commission on the Deaf and Hard of Hearing office located at 632 Versailles Road, Frankfort, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by May 14, 2018, five work-days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is received. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 2018. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

**CONTACT PERSON:** Virginia L. Moore, Executive Director, email [virginia.moore@ky.gov](mailto:virginia.moore@ky.gov), 632 Versailles Road, Frankfort, Kentucky 40601, phone (502) 573-2604 v/tty, fax (502) 573-3594 or Videophone (502) 416-0607.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Virginia L. Moore

(1) Provide a brief summary of:

(a) What this administrative regulation does: 735 KAR 2:020 clarifies program parameters for administration of the Interpreter Referral Services Program within the Kentucky Commission on the Deaf and Hard of Hearing.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement the provisions of KRS 163.510(4), which mandates that the Kentucky Commission on the Deaf and Hard of Hearing administer the Interpreter Referral Services Program, to meet the needs of deaf and hard of hearing individuals seeking access to services offered by state agencies.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by clarifying parameters for administering the Interpreter Referral Services Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation clarifies parameters used to administer the Interpreter Referral Services Program within the Kentucky Commission on the Deaf and Hard of Hearing which ensures that deaf and hard of hearing consumers in Kentucky have access to state agency services.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment adds captioning as parameters pertinent to the operation of the Interpreter Referral Services Pro-

gram and includes the requirement that interpreters utilized by the program must hold state licensure.

(b) The necessity of the amendment to this administrative regulation: This amendment expands on and clarifies parameters of the Interpreter Referral Services Program, includes requirements for licensure of interpreters in Kentucky, and brings the regulation into compliance with requirements mandated in KRS Chapter 13A.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment expands on parameters currently utilized to administer the Interpreter Referral Services Program, especially since the implementation of licensure requirements for interpreters in Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies parameters of the Interpreter Referral Services Program to ensure effective and efficient access to communication for deaf and hard of hearing consumers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The 700,000 deaf and hard of hearing consumers in the Commonwealth that utilize state services may be affected by this administrative regulation. State agencies within the Commonwealth that provide interpreting or captioning services to deaf or hard of hearing consumers for access to communication may be impacted by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is required by the entities identified in question (3) to comply with the amendment to this regulation. Agencies that utilize the Interpreter Referral Services Program for coordination of interpreters and captioners will be better served and brought into compliance with ADA requirements for providing communication access to deaf and hard of hearing consumers.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no change in the cost for agencies utilizing services, or consumers accessing services, because of the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Both consumers and agencies will benefit from the streamlining of services to access interpreters and captioners, and agencies will be brought into compliance with ADA requirements for providing communication access to deaf and hard of hearing consumers.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No change in cost initially after implementation of this amendment.

(b) On a continuing basis: No change in cost ongoing due to this amendment. Continued indirect costs include 10% of the Executive Director's time to supervise the administration of this program.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General Funds already allotted to KCDHH will support the implementation of this amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fees or funding is required to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied, or required, to implement this amendment.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties fire departments, or school districts) will be impacted by this administrative regulation? State agencies utilizing the Interpreter Referral Services Program will benefit from the clarifications made in this amendment.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. State statutory authority; KRS 12.290, 163.510(4). Federal statutory authority; 29 U.S.C. Sec 794 and 42 U.S.C. Sec 12132.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire department, or school districts) for the first full year the administrative regulation is to be in effect. There is no effect on the expenditures and revenues of state government agencies because of this amendment. Local agencies cannot utilize the Interpreter Referral Services Program, so there is no impact on expenditures and revenues for those entities.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated initially because of this amendment.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated ongoing because of this amendment.

(c) How much will it cost to administer this program for the first year? The cost for administration of this program is included in the agency's general fund budget and will not increase because of this amendment.

(d) How much will it cost to administer this program for subsequent years? The cost of administration of this program is included in the agency's general fund budget and will not increase because of this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no direct fiscal impact because of this amendment. The KCDHH Executive Director works with the agency's annual budget as provided by the General Assembly and is monitored by the Commission Board per KRS 163.506.

Expenditures (+/-): There is no direct fiscal impact because of this amendment. The KCDHH Executive Director works with the agency's annual budget as provided by the General Assembly and is monitored by the Commission Board per KRS 163.506.

Other Explanation: None